

REMARKS

Claims 1-17 are pending. Claims 5, 9-12 and 14-16 were objected, and claims 1-4, 6-8, 13 and 17 were rejected. Claims 1-7, 9, 13-16 have been amended to further clarify the claims. Claim 1 finds support throughout the application as originally filed. For example, the specification teaches that "the second promoter must be inactive or silent in the target host, such as a human." (page 4, lines 9-10). Claim 17 has been amended to correct a typographical error. No new matter has been added.

As a preliminary matter, the Office Action indicated that "[C]laims 5, 9-12 and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all the limitations of the base claim and any intervening claims." (Office Action, page 5).

Original claim 5 has been amended to read as an independent claim reciting the "lac promoter". Thus, claim 5 is now in a condition for allowance.

Original claim 9 has been amended to read as an independent claim reciting "nucleic acid molecule...encoding a toxic protein". Thus, claim 9 is now in a condition for allowance.

Original claim 14 and 15 have been amended to read as independent claims. Thus, claims 14 and 15 are in a condition for allowance.

Original claims 10-12 now depend ultimately from claim 9, which is now in a condition for allowance.

Original claim 16 has been amended to depend from amended claim 9, which is now in a condition for allowance.

I. Claims 1-4, 6-8, And 17 Are Novel**A. The Stratagene Catalog**

Claim 1-4, 6-8, and 17 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by the 1992 Stratagene Catalog. Claims 2-4, 6-8 and 17 have been amended to ultimately depend from claim 9, which is now in condition for allowance.

The Stratagene Catalog reports a vector having promoters in opposite orientations, i.e., pBK-CMV comprising a CMV intermediate early promoter and a T7 promoter. The Stratagene Catalog, however, does not disclose all the features of claim 1, as amended herein. For example, amended claim 1 recites that the second promoter is silent in a target host in vivo. The Stratagene Catalog does not teach or suggest that the T7 promoter will be silent in a target host cell in vivo.

Since the Stratagene Catalog does not disclose all the features of the invention in claim 1, the Stratagene Catalog does not anticipate this claim. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. §102(b) be withdrawn.

B. The Invitrogen Catalog

Claims 1-4, 7 and 13 are rejected under 35 U.S.C. §102(b) as allegedly being anticipated by the 1992 Invitrogen Catalog. Claims 2-4, 7 and 13 have been amended to ultimately depend from claim 9, which is now in condition for allowance.

The Invitrogen Catalog reports a vector having promoters in opposite orientations, i.e., p2Bac comprising Ppol and p10. The Invitrogen Catalog, however, does not disclose all the features of claim 1, as amended herein. For example, amended claim 1 recites that the second promoter is silent in a target host in vivo. The Invitrogen Catalog does not teach or suggest that the T7 promoter will be silent in a target host cell in vivo.

Since the Invitrogen Catalog does not disclose all the features of the invention in claim 1, the Invitrogen Catalog does not anticipate this claim. Accordingly, Applicants respectfully request that the rejection under 35 U.S.C. §102(b) be withdrawn.

II. Conclusion

The present claims are in condition for allowance and an early notice of the same is earnestly solicited. If, for any reason, the present application fails to proceed to allowance, the Examiner is encouraged to contact Applicants' undersigned representative at (215) 665-2158.

Respectfully submitted,



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